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TRANSMITTAL FORM

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Application Number	09/547,710
Filing Date	April 11, 2000
First Named Inventor	JOHNSON, Sam
Art Unit	2143
Examiner Name	VAUGHN Jr., William C.
Attorney Docket Number	09001.1001

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☑ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) (please Identify below):

Remarks

The appeal brief filed on Feb. 21, 2005 received a Notification of Non-Compliance. In response to this notice, submit an Amended Appeal Brief in Triplicate

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Smith Frowhwein Tempel Greenlee Blaha, LLC		
Signature			
Printed name	Gregory Scott Smith		
Date	September 29, 2005	Reg. No.	40,819

CERTIFICATE OF TRANSMISSION/MAILING

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Signature			
Typed or printed name	Gregory Scott Smith	Date	September 29, 2005

Patent
Attorney Docket No. 09001.1001
Application No.: 09/547,710
Customer No. 35856

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	§	
	§	
Sam Johnson et al.	§	
	§	
Application No: **09/547,710**	§	Group Art Unit: **2143**
	§	
Filed: **April 11, 2000**	§	Examiner: **Vaughn Jr., William C.**
	§	
For: **A SYSTEM FOR AND METHOD OF IMPLEMENTING A CLOSED LOOP RESPONSE ARCHITECTURE FOR ELECTRONIC COMMERCE**	§	Our File No.: **09001.1001**

AMENDED APPEAL BRIEF UNDER 37 C.F.R. § 1.192 RESPONSIVE TO 09/23/2005 COMMUNICATION FROM THE OFFICE

Mail Stop: Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

To the Office:

This is an amended appeal to the Board of Patent Appeals and Interferences ("the Board") from the final Office Action dated June 21, 2004 finally rejecting claims 1-8, 10, 11, 20, 24, 25, 28, 31-34, 42, 44-58, 80, 89-94 and 96-98, in the above-referenced patent application. The appealed claims, as rejected, are set forth in the attached Appendix. The appeal has been modified by including a concise explanation of the claims in section V and correcting the headings of the appeal brief.

In support of the Notice of Appeal filed February 21, 2005, and pursuant to 37 C.F.R. § 1.192, Appellants present in triplicate this supplemental brief. As the fee has been previously paid, there is no additional fee due at this time.

I. Real Party in Interest

Avintaquin Capital, LLC is the assignee of record.

II. Related Appeals and Interferences

Appellants' undersigned legal representative knows of no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

Claims 1-8, 10, 11, 20, 24, 25, 28, 31-34, 42, 44-58, 80, 89-94 and 96-98 are pending in this application. No claim has been allowed.

IV. Status of Amendments

The first substantive Office Action was mailed on January 2, 2004. The appellant amended the claims in a response to this Office Action that was filed on April 2, 2004. A subsequent and Final Office Action was mailed on June 21, 2004. The appellant presented arguments to traverse the Examiner's rejections but did not present any additional amendments in a response that was filed on October 21, 2004. Thus, no amendments to the claims have been filed subsequent to the final rejection dated June 21, 2004. The Examiner indicated that the response to the final Office Action filed on October 21, 2004, was not entered. The claims presented in the attached appendix reflect the current status of the claims. An attempt was made through engaging the Examiner in a series of telephone conferences to articulate the appellant's position but an agreement between the appellant and Examiner was not able to be reached.

V. Summary of Claimed Subject Matter

This invention relates to a playback device, the can be operated within a closed loop system, to receive and playback media content and provide response information related to particular segments and/or sub-segments of the media content. More specifically, a mobile content server can provide content segments to a playback device based at least in part on user information. Each content segment represents a complete content item, such as a song, a video, an advertisement, a new report, etc. At least one of the content segments includes at least one sub-segment. The playback device can provide response information to the mobile content server.

In one embodiment of the invention, the response information is associated with a particular sub-segment of a content segment and solicits various actions based on which sub-segment with which it is associated.

One aspect of the closed loop system is the mobile-content server. The mobile-content server includes an information content source interface, a playback device interface, and a server application. The server application enables the mobile-content server to receive user information from a user. Based, at least in part, on the user information, the mobile-content server obtains content programming information via the information content source interface. The content programming information may take on a variety of forms. In one such form, the information content is in a raw form. In another form, the information content is in a series of content segments. The mobile-content server then delivers the content programming information to a playback device via the playback device interface. Finally, the mobile-content server receives response information from the playback device via the playback device interface.

Depending on the particular embodiments, the response information may take on a variety of forms. In one embodiment, the response information includes a time-stamp. The time-stamp allows the mobile-content server to identify the specific content pertaining to the response information. In another embodiment, the response information may identify a particular portion of the content programming information or any advertising content that may also be included.

Another aspect of the closed loop system is the playback device. The playback device includes a memory storage unit, an information content source interface, a mobile-content server

interface; and a processing unit. In accordance with the content programming information received from the mobile-content server, the playback device is operative to receive information content from the information content source via the information content source interface and then store this information content into the memory storage unit or to provide the content to an audio output or source, such as a speaker. In one embodiment, the playback device receives content in a raw format. In this embodiment, the playback device converts the information content into one or more content segments in a format suitable for playback. Such formats include MP3 format or other digital compression formats. In other embodiments, the information content is received in a form suitable for storing without performing any conversion to the content.

CONCISE EXPLANATION OF CLAIMS AT ISSUE

Claim 1. This claim is directed towards a closed loop system that allows information obtained from a content source to be delivered to a playback device. Page 7, line 25 to page 8, line 5. The system includes a mobile-content server that includes an information content source interface, a playback device interface (Fig. 9 element 960) and a server application. Page 5, lines 10-11. The server application runs on the mobile-content server. Page 11, lines 7-19, Fig. 1 elements 135 and 150. The mobile-content server operates to receive user information. Page 5, lines 12-14. This information comprises a variety of information types including passwords and user profile information. Page 22, line 21 to page 27, line 13. The mobile-content server then obtains content programming information through the information content source interface based at least in part on the user information. Page 5, lines 14-16. The content programming information includes a plurality of content segments with at least one of the content segments including at least one sub-segment. The sub-segment is a division of the content segment. Page 15, line 19 to page 16, line 1. The mobile-content server then delivers the content programming to the playback device over the playback device interface. Page 11, lines 20-25 and page 42, line 28 to page 43, line 1. Finally, the mobile-content server receives response information from the playback device. Page 5, lines 20-22 and page 30, lines 22-26.

Claim 3. This claim depends from claim 1 and further includes the limitation that the response information is associated with a particular sub-segment of a content segment of the

content programming information. Further, the response information solicits various actions based on which sub-segment within the content segment with which it is associated. Page 15, line 20 to page 16 line 19.

Claim 6. This claim depends indirectly from claim 1, further includes the limitation that the response information is associated with a particular sub-segment of a content segment of the content programming information. Further, the response information solicits various actions based on which sub-segment within the content segment with which it is associated. Page 15, line 20 to page 16 line 19. More specifically, the response indicates an intent to make a purchase. Page 14, lines 10-14, page 15, lines 25-26, page 31, lines 24-26, page 32, lines 10-24.

Claim 8. This claim depends indirectly from claim 1, further includes the limitation that the response information is associated with a particular sub-segment of a content segment of the content programming information. Page 15, line 20 to page 16 line 19.

Claim 42. This claim is directed towards a playback device that comprises a memory storage unit; an information content source interface; a mobile-content server interface; a processing unit coupled to the memory storage unit the information content source interface and the mobile-content server interface. Page 6 lines 3-16. The processing unit receives content programming information via the mobile-content server interface. Page 6, lines 4-16. The processor is also operable to enable the information content source interface in accordance with the content programming information. Page 40, lines 18-26, page 41, lines 25-28. The processor operates to receive the information content through the information content source interface. Page 6, lines 3-10. The content information is then converted into one or more content segments, with at least one of the content segments being converted into at least one sub-segment. Page 6, lines 10-16, page 15, lines 19-20. The information content is then stored into the memory storage unit. Page 6, lines 7-9. Any response information associated with the information content is provided to the mobile-content server interface. Page 30, lines 10-12, page 36, lines 19-23.

Claim 53. This claim depends directly from claim 42 and further includes the limitation of the playback including a response generator interface that is coupled to the processing unit. Page 14, lines 21-24. The processing unit provides response information by first detecting a signal on the response generator interface. Page 30, lines 22-24. This response signal is used to create a response indicator. Page 41, lines 1-4, page 15, lines 11-16. The response indicator is correlated with the currently active content segment and sub-segment and is then provided to the mobile content interface. Page 15, lines 11-16, page 30, lines 10-12, page 36, lines 19-23.

Claim 58. This claim is directed towards a playback device that comprises a memory storage unit; an information content source interface; a mobile-content server interface; an audio output, a processing unit coupled to the memory storage unit the information content source interface and the mobile-content server interface. Page 6 lines 3-16. The processing unit receives content programming information via the mobile-content server interface. Page 6, lines 4-16. The processor is also operable to enable the information content source interface in accordance with the content programming information. Page 40, lines 18-26, page 41, lines 25-28. The processor operates to receive the information content through the information content source interface. Page 6, lines 3-10. The information content includes entertainment content and advertising content. Page 8, lines 7-20. If the received information is not divided into content segments and sub-segments, the processor operates to convert the information content into content segments and sub-segments. Page 6, lines 10-16, page 15, lines 19-20, page 33, lines 3-5. The processor then provides the information content to an audio output. Page 6, lines 5-10. The sub-segment that is being provide to the audio output is the currently active sub-segment; and. Page 15, lines 11-16.

The playback device also includes a response generator interface that is coupled to the processing unit. Page 14, lines 21-24. The processing unit provides response information by first detecting a signal on the response generator interface. Page 30, lines 22-24. This response signal is used to create a response indicator. Page 41, lines 1-4, page 15, lines 11-16. The response indicator is correlated with the currently active content segment and sub-segment and is then provided to the mobile content interface. Page 15, lines 11-16, page 30, lines 10-12, page 36, lines 19-23.

Claim 80. This claim is directed towards a playback device that comprises a memory storage unit; an information content source interface; a mobile-content server interface; an audio output, a processing unit coupled to the memory storage unit the information content source interface and the mobile-content server interface. Page 6 lines 3-16. In addition, the playback device includes a user interface. Page 43, lines 3-8. The processing unit receives content programming information via the mobile-content server interface. Page 6, lines 4-16. The received content information is divided into one or more content segments, with at least one of the content segments being converted into at least one sub-segment. Page 6, lines 10-16, page 15, lines 19-20. The processor then provides the information content to an audio output. Page 6, lines 5-10.

The playback device also includes a response generator interface that is coupled to the processing unit. Page 14, lines 21-24. The processing unit provides response information by first detecting a signal on the response generator interface. Page 30, lines 22-24. This response signal is used to create a response indicator. Page 41, lines 1-4, page 15, lines 11-16. The response indicator is correlated with the currently active content segment and sub-segment and is then provided to the mobile content interface. Page 15, lines 11-16 Page 30, lines 10-12, page 36, lines 19-23.

Claim 89. This claim is directed towards a playback device that comprises a memory storage unit; an information content source interface; a mobile-content server interface; a processing unit coupled to the memory storage unit the information content source interface and the mobile-content server interface. Page 6 lines 3-16. In addition, the playback device includes a user interface. Page 43, lines 3-8.

The processing unit, in response to instructions received on the user interface, enables the information content interface to receive a selection menu via the information content source interface. Page 12, lines 12-14. The processing unit receives a content selection via the user interface, the content selection being associated with at least one item on the at least one selection menu and then provide an indicator of the content selection to the information content source interface. Page 11, line 25 to page 12, line 25. The processor receives information

content via the information content source interface, the information content being associated with the content selection; page 12, lines 25-28. If the received information is not divided into content segments and sub-segments, the processor operates to convert the information content into content segments and sub-segments. Page 6, lines 10-16, page 15, lines 19-20, page 33, lines 3-5. Finally, the information content is then stored into the memory storage unit. Page 6, lines 7-9.

Claim 90. This claim depends directly from claim 89 and further includes the limitation of an audio interface (page 6 lines 3-16) and a response generator interface (age 14, lines 21-24). The processor reads the information content from the memory storage unit and then provides the information content to an audio interface. Page 6, lines 5-10. The playback device also includes a response generator interface that is coupled to the processing unit. Page 14, lines 21-24. The processing unit detects a response signal on the response generator interface (page 30, lines 22-24) and associates the response signal with the information content currently being provided to the audio interface. Page 41, lines 1-4, page 15, lines 11-16, page 15, lines 11-16, page 30, lines 10-12, page 36, lines 19-23.

Claim 94. This claim is directed towards a playback device that comprises a memory storage unit; an information content source interface; a mobile-content server interface; an audio output, a processing unit coupled to the memory storage unit the information content source interface, the audio interface and the mobile-content server interface. Page 6 lines 3-16. In addition, the playback device includes a user interface. Page 43, lines 3-8.

The processing unit, in response to instructions received on the user interface, enables the information content interface to receive a selection menu via the information content source interface. Page 12, lines 12-14. The processing unit receives a content selection via the user interface, the content selection being associated with at least one item on the at least one selection menu and then provide an indicator of the content selection to the information content source interface. Page 11, line 25 to page 12, line 25. The processor receives information content via the information content source interface, the information content being associated with the content selection; page 12, lines 25-28. The received content information is divided into

one or more content segments, with at least one of the content segments being converted into at least one sub-segment. Page 6, lines 10-16, page 15, lines 19-20. The processor then provides the information content to an audio interface. Page 6, lines 5-10.

The playback device also includes a response generator interface that is coupled to the processing unit. Page 14, lines 21-24. The processing unit detects a response signal on the response generator interface (page 30, lines 22-24) and associates the response signal with the information content currently being provided to the audio interface. Page 41, lines 1-4, page 15, lines 11-16, page 15, lines 11-16, page 30, lines 10-12, page 36, lines 19-23.

VI. Grounds of Rejection to be Reviewed on Appeal

The grounds of rejection to be reviewed on appeal are as follows:

1) Whether claims 1-8, 10, 11, 20, 28, 31-33, 42, 46-58, 80, 89-94 and 96-98 are patentable under 35 U.S.C. § 102 over Logan et al. (U.S. Patent No. 5, 732,216) ("Logan"); and

2) Whether claims 24, 25, 34 and 45 are patentable under 35 U.S.C. § 103(a) over Logan in view of what the Office alleges as being well known in the art.

VII. Argument

Each claim of this patent application is separately patentable, and upon issuance of a patent will be entitled to a separate presumption of validity under 35 U.S.C. § 282. For convenience in handling this appeal, however, the claims will be grouped as set forth below, and arguments supporting these groupings are contained in the "Arguments" section of this Appeal Brief.

Claims 1-8, 10, 11, 20, 28, 31-33, 42, 46-58, 80, 89-94 and 96-98 stand or fall together with respect to the § 102 rejection over Logan; and

Claims 24, 25, 34 and 45 stand or fall together with respect to the § 103(a) rejection over Logan in view of what is well known in the art.

A. Claims 1-8, 10, 11, 20, 28, 31-33, 42, 46-58, 80, 89-94 and 96-98 are patentable over Logan

The Examiner rejected claims 1-8, 10, 11, 20, 28, 31-33, 42, 46-58, 80, 89-94 and 96-98 under 35 U.S.C. § 102 as being anticipated by Logan. Office Action dated January 2, 2004, pages 3-13; Office Action dated June 21, 2004, pages 2-11. Appellants maintain that the cited reference does not describe, suggest or teach each and every element of the claims and thus, does not anticipate the claims.

i. General Principles

Anticipation requires identifying prior art that identifies the elements of the claim. The claimed system, device or process, including each element or step thereof, must have been described or embodied, either expressly or inherently, in a single reference. Glaverbel Societe Anonyme v. Northlake Marketing & Supply Inc., 45 F.3d 1550, 1554, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). To support anticipation, the reference must be sufficiently clear so as to prove the existence of each and every element in the claim. Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Co., 730 F.2d 1452, 1458 (Fed. Cir. 1984).

The reference may anticipate a claim if a missing element is inherent in the disclosure. In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. Id.

ii. Limitations Not Described in Independent claims 1, 42, 58, 80, 89 and 84

Logan does not anticipate claims 1-8, 10, 11, 20, 28, 31-33, 42, 46-58, 80, 89-94 and 96-98 because this reference fails to describe, either explicitly or inherently, the element of content programming information that includes a plurality of content segments with at least one of the content segments including at least one sub-segment. As defined in the specification, a content segment represents a segment of information, such as a song, a news headline, a talk radio show, a broadcast sports event, etc. Page 8 lines 12-17.

While Logan does teach the delivery of content in the form of segments, there is no description of further dividing the content segments into sub-segments. Logan does teach combining multiple segments into a serialized program in column 18 and lines 43 to 50. However, this is not the same as dividing a segment into sub-segments. Sub-segments, as defined in the specification, is a granularity of division that is not contemplated by Logan. The sub-segment is a division of the content segment. See page 15, line 19 to page 16, line 1.

The Examiner in this case specifically sites column 18, lines 43-67 and column 19, lines 1-43 of Logan as anticipating this element of the claimed invention. However, the Examiner only points out that Logan teaches the use of content segments and does not show any indication that Logan teaches the division of the content segment into sub-segments.

The Examiner also references column 18, lines 43-67 and column 19 lines 1-43 of Logan stating that Logan teaches program segments and within the program segment is a comment on field that contains the program id of the program segment commented on. It is unclear what the purpose of the Examiner's position is with relationship to this citation in the reference; however, if the Examiner is implying that such a comment anticipates either the use of sub-segments or response information, the appellant disagrees. The sub-segments, as recited in the claims and as defined in the specification is a division of a content segment, not the appendage of additional

information to the content segment. In addition, providing a comment regarding a particular content segment is not the same as providing response information pertaining to a particular sub-segment and, as further articulated below, certainly does not solicit an action as recited in some of the dependent claims.

For the reasons discussed above, the Examiner has failed to establish that Logan describes each and every limitation of the claimed invention either explicitly or inherently. The element of content segments with at least one of the content segments including at least one sub-segment is included in each of the independent claims 1, 42, 58, 80, 89 and 84. Furthermore, claims 2-8, 10, 11, 20, 28, and 31-33 depend from independent claim 1, claims 46-57 depend from independent claim 42, claims 90-93 depend from independent claim 89 and claims 96-98 depend from independent claim 94. The Board is respectfully requested to reverse the rejection of claims 1, 42, 58, 80, 89 and 84 under 35 U.S.C. § 102 to put this application in condition for allowance.

iii. Limitations Not Described in claims 3, 6, 8, 53, 54, 58, 80, 90

Each of these claims includes an element of a response indicator that is associated with a sub-segment. With regards to claim 3, the response indicator is not only associated with a particular sub-segment, but it also solicits various actions based on which sub-segment within the content segment with which it is associated.

The Examiner rejected claim 3 stating that Logan teaches that the player identifies program segments desired by the subscriber, program segments newly requested by the user are appended to the compilation. The Examiner relied on the text in column 6, lines 9-26 and column 17, lines 42-61. This text is repeated here for convenience:

> Usage data in the store 109 maintained by the player 103 is preferably uploaded as a file bearing a predetermined file name indicative of the particular subscriber and upload time and stored in a predetermined FTP upload directory. This upload advantageously occurs at the same time the player 103 establishes a download connection to the FTP server 125 as noted earlier, and occurs prior to the download of the compilation 145. Because the upload data from the store 109 in the player 103 identifies program segments desired by the subscriber, program segments newly requested by the user are appended to the compilation 145. Note that, in typical cases, programming in addition to the specifically requested programming will be included in the download compilation, and the transfer of that programming can begin immediately while the newly uploaded user selections and other information are being processed as indicated at 153 to identify additional information to be included in the download compilation. **Col. 6, lines 9-26**
>
> The Programs Table 303, as noted above, contains Program_Segment records which describe the nature of each programming, advertising and announcement segment in the library which is potentially reproducible by the player 103. As illustrated by the type declaration above, each Program_Segment record specifies the account number (ProviderID) of the advertiser or content provider if any who may be charged or compensated for the actual playing of the program segment by subscribers. The record further contains a Classtype variable Class which indicates whether this segment is an advertisement, a program, a comment or an announcement.
> The Class variable may also used to further subclass each program segment; for example, program segments which hold user-recorded comments may be designated as being "public" comments made generally available to all subscribers, "private" comments to be directed solely to the provider of the program_segment commented upon, and "host" comments to be directed to the host system. **Col. 17, lines 42-61**.

This text fails to describe, suggest or teach response indicators that are associated with sub-segments and that solicit certain actions. Furthermore, the entire Logan reference does not describe such an element. Referring to the text of the application, this element of claim 3 is clearly described on page 15 starting at line 22 where it states:

> As an example, an advertising segment may include three sub-segments. If a user actuates a response button during a first sub-segment, the user may be put on a mailing list for additional information. If a user actuations the button during a second sub-segment, an electronic commerce transaction for the purchase of a product may be initiated. If the user actuates the response button during the third sub-segment, the user may be requesting additional information regarding the advertised product or service to be sent to the playback device 155 at a later time.

Thus, this element in claim 3 clearly involves a response indicator that is associated with a particular sub-segment of a content segment and solicits an action based on which sub-segment with which it is associated. The Board is respectfully requested to reverse the rejection of claim 3 under 35 U.S.C. § 102 to put this claim in condition for allowance.

With regards to claim 6, the response indicator is associated with a sub-segment and indicates intent to make a purchase.

With regards to claims 53, 54, 58, 80 and 90, the response indicator is correlated to a currently active segment or sub-segment.

Again, the Examiner has failed to show that the Logan reference describes, suggests or teaches this element that is present in claims 6, 53, 54, 80 and 90. The Board is respectfully requested to reverse the rejection of claims 6, 53, 54, 80 and 90 under 35 U.S.C. § 102 to put these claims in condition for allowance.

Finally, the Examiner responded to the applicant's previously asserted arguments that Logan does not disclose converting the information content into one or more sub-segments by citing column 44, lines 21-35 of Logan. This text is repeated here for the Boards convenience:

> A conventional HTML hypertext anchor "<A HREF=`target`> full motion video</A>" is processed to produce the three records "A", "B" and "L" at 478 in the selections file which respectively designate the beginning and ending of the anchor text passage and

> the location of a linked information. The "HREF=`target`" portion of the HTML specifies the target location in conventional HTML and that symbolic address is then translated by the selections file compiler into the location within the selections file of the selections file record which refers to that target or, for targets in program segments which are not part of the currently scheduled programming defined by the selections file, by a negative number representing the negative of the ProgramID number of the target program segment.

This cited text certainly does not describe the element of converting content segments into sub-segments, nor the inclusion of response information associated with the sub-segments.

B. Claims 24, 25, 34 and 45 are patentable over Logan in view of well known art

The Examiner rejected claims 24, 25, 34 and 45 under 35 U.S.C. § 103(a) as unpatentable over Logan in view of what was well known in the art. Without addressing the particulars of the Examiner's rejection, these claims depend either directly or indirectly from the above-discussed independent claims. As such, the Board is respectfully requested to reverse the rejection of claims 24, 25, 34 and 45 under 35 U.S.C. § 103(a) to put these claims in condition for allowance.

VIII. Claim Appendix

An appendix containing a copy of the claims involved in the appeal.

IX. Evidence Appendix

No further evidence is being presented pursuant to sections 1.130, 1.131 and 1.132 of title 37.

X. Related Proceedings Appendix

There are no related proceedings.

Conclusion

In view of the foregoing, Appellants respectfully request that each rejection be reversed and withdrawn.

Respectfully submitted,

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By:_____
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APPENDIX - PENDING CLAIMS

1. (previously presented) A closed loop system for delivering information obtained from an information content source to a playback device, comprising:

a mobile-content server comprising:

an information content source interface;

a playback device interface; and

a server application operating on the mobile-content server and enabling the mobile-content server to be operative to:

receive user information;

obtain content programming information via the information content source interface, the content programming information being based at least in part on the user information and including a plurality of content segments with at least one of the plurality of content segments including at least one sub-segment;

deliver the content programming information to the playback device via the playback device interface; and

receive response information from the playback device via the playback device interface.

2. (previously presented) The closed loop system of claim 1, wherein the response information includes a time-stamp.

3. (previously presented) The closed loop system of claim 1, wherein the response information is associated with a particular sub-segment of a content segment of the content programming information and the response information solicits various actions based on which sub-segment within the content segment with which it is associated.

4. (previously presented) The closed loop system of claim 3, wherein the mobile-content server further comprises an advertising database for storing advertisement segments.

5. (previously presented) The closed loop system of claim 4, wherein the mobile-content server is further operative to deliver selected advertisement segments to the playback device via the playback device interface, the selected advertisement segments being selected from the advertising database.

6. (previously presented) The closed loop system of claim 5, wherein the selected advertisement segments include at least one sub-segment and the response information from the playback device is associated with a sub-segment of the selected advertising segment and when the response is associated with at least one sub-segment of an advertisement segment, the response indicates an intent to make a purchase.

7. (previously presented) The closed loop system of claim 4, wherein the mobile-content server selects the advertisement segments from the advertising database based, at least in part, on the user information.

8. (previously presented) The closed loop system of claim 4, wherein the response information from the playback device is associated with a particular sub-segment of a particular content segment of the content programming information.

9. (canceled)

10. (previously presented) The closed loop system of claim 8, wherein the user information comprises preference information comprising specific content request and content categories.

11. (previously presented) The closed loop system of claim 1, wherein the playback device comprises:

a memory storage unit;

an information content source interface;

a mobile-content server interface; and

a processing unit coupled to the memory storage unit, the information content source interface and the mobile-content server interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to:

enable the information content source interface in accordance with the content programming information;

receive information content from an information content source via the information content source interface; and

store the information content into the memory storage unit.

12-19 (canceled)

20. (previously presented) The closed loop system of claim 1, wherein the playback device comprises:

a memory storage unit;

an information content source interface;

a mobile-content server interface;

an audio output;

a processing unit coupled to the memory storage unit, the mobile-content server interface, the audio output and the information content source interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to:

enable the information content source interface in accordance with the content programming information;

receive information content transmitted content from an information content source via the information content source interface; and

provide the information content to the audio output.

21-23 (canceled)

24. (previously presented) The closed loop system of claim 20, wherein the information content source interface is a tunable receiver and the content programming information comprises an information content source identifier and a time-stamp and the playback device is operative to enable the information content source interface by tuning to a channel associated with the information content source identifier at the time identified by the time-stamp.

25. (previously presented) The closed loop system of claim 20, wherein the information content source interface is a tunable receiver and the content programming information comprises an information content source identifier and a time-stamp and the playback device is operative to enable the information content source interface by tuning the tunable receiver to a channel associated with the information content source identifier at the time identified by the time-stamp.

26 – 27 (canceled)

28. (previously presented) The closed loop system of claim 20, wherein the information content source interface is a cellular receiver and the content programming

information comprises a telephone number and a time-stamp, and the playback device is operative to enable the information content source interface by initiating a call to the telephone number at the time identified by the time-stamp.

29 – 30 (canceled)

31. (previously presented) The closed loop system of claim 20, wherein the information content source interface is a cellular receiver and the content programming information comprises a time-stamp, and the playback device is operative to enable the information content source interface by accepting an incoming call at the time identified by the time-stamp.

32. (previously presented) The closed loop system of claim 31, wherein the information content is received by the playback device in raw form.

33. (previously presented) The closed loop system of claim 31, wherein the information content is received by the playback device in content segment form.

34. (previously presented) The closed loop system of claim 20, wherein the information content source interface is a tunable receiver and the content programming information comprises an information content source identifier, a time-stamp and a time duration, and the playback device is operative to enable the information content source interface by tuning to a channel associated with the information content source identifier at the time identified by the time-stamp, and the playback device is operative to receive information content transmitted from the information source for the time duration.

35-41 (canceled)

42. (previously presented) A playback device comprising:

a memory storage unit;

an information content source interface;

a mobile-content server interface;

a processing unit coupled to the memory storage unit, the information content source interface and the mobile-content server interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to:

receive content programming information via the mobile-content server interface;

enable the information content source interface in accordance with the content programming information;

receive information content from the information content source via the information content source interface;

convert information content into one or more content segments, and convert at least one content segment into at least one sub-segment.

store the information content into the memory storage unit; and

provide response information to the mobile-content server interface.

43. (canceled)

44. (previously presented) The playback device of claim 42, wherein the playback device is further operative to receive an advertisement segment via the mobile-content server interface, and wherein the processing unit of playback device, prior to storing the information content into the memory storage unit, is further operative to:

convert the information content into one or more content segments;

convert at least one content segment into at least one sub-segment; and

interleave the advertisement segment with the one or more content segments.

45. (previously presented) The playback device of claim 42, wherein the information content source interface is a tunable receiver and the content programming information comprises an information content source identifier and a time-stamp and the playback device is operative to enable the information content source interface by tuning to a channel associated with the information content source identifier at the time identified by the time-stamp.

46. (previously presented) The playback device of claim 42, wherein the information content source interface is a cellular receiver.

47. (previously presented) The playback device of claim 46, wherein the information content is received by the playback device in raw form.

48. (previously presented) The playback device of claim 46, wherein the information content is received by the playback device in content segment form.

49. (previously presented) The playback device of claim 42, wherein the information content source interface is a cellular receiver and the content programming information comprises a telephone number and a time-stamp, and the playback device is operative to enable the information content source interface by initiating a call to the telephone number at the time identified by the time-stamp.

50. (previously presented) The playback device of claim 49, wherein the information content is received by the playback device in raw form.

51. (previously presented) The playback device of claim 49, wherein the information content is received by the playback device in content segment form.

52. (previously presented) The playback device of claim 42, further comprising an audio interface coupled to the processing unit, and the processing unit is further operative to:

read the information content from the memory storage unit; and

provide the information content to the audio interface.

53. (previously presented) The playback device of claim 42, further comprising a response generator interface coupled to the processing unit, and the processing unit is operative to provide response information by being operative to:

detect a signal on the response generator interface;

create a response based, at least in part, on the detected signal;

correlate the response to a presently active content segment or sub-segment; and

provide the response to the mobile-content interface.

54. (previously presented) The playback device of claim 42, further comprising an audio interface and a response generator interface, both coupled to the processing unit, and the processing unit is further operative to:

read the information content from the memory storage unit; and

provide the information content to the audio interface; and

the processing unit is operative to provide response information by being operative to:

detect a signal on the response generator interface;

create a response based at least in part on the detected signal;

correlate the response to a currently active content segment or sub-segment; and

provide the response to the mobile-content interface.

55. (previously presented) The playback device of claim 54, wherein the response generator interface is a user actuated key.

56. (previously presented) The playback device of claim 54, wherein the response generator interface is a user actuated programmable key.

57. (previously presented) The playback device of claim 54, wherein the response generator interface is a voice activated receiver.

58. (previously presented) A playback device comprising:

a memory storage unit;

an information content source interface;

a mobile-content server interface;

an audio output;

a processing unit coupled to the memory storage unit, the mobile-content server interface, the audio output and the information content source interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to:

enable the information content source interface in accordance with the content programming information;

receive information content via the information content source interface, the information content including entertainment content and advertising content;

if the received information content is not divided into content segments and sub-segments, convert the information content into content segments and sub-segments;

provide the information content to the audio output, the sub-segment of the information content being provided to the audio output being the currently active sub-segment; and

a response generator interface coupled to the processing unit, and the processing unit is operative to provide response information by being operative to:

detect a signal on the response generator interface;

create a response based, at least in part, on the detected signal;

correlate the response to the currently active content segment and sub-segment; and

provide the response to the mobile-content interface.

59-79 (canceled)

80. (previously presented) A playback device comprising:

a memory storage unit;

an information content source interface;

an audio interface

a user interface; and

a processing unit coupled to the memory storage unit, the user interface, the audio interface and the information content source interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to:

receive information content via the information content source interface, the information content being divided into a plurality of content segments with at least one content segment including at least one sub-segment;

provide the information content to the audio output;

a response generator interface coupled to the processing unit, and the processing unit is operative to provide response information by being operative to:

detect a signal on the response generator interface;

create a response based, at least in part, on the detected signal;

correlate the response to the currently active content segment and sub-segment; and

provide the response to the mobile-content interface.

81-88 (canceled)

89. (previously presented) A playback device comprising:

a memory storage unit;

an information content source interface;

a user interface; and

a processing unit coupled to the memory storage unit, the user interface and the information content source interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to:

in response to instructions received via the user interface, enable the information content source interface;

receive at least one selection menu via the information content source interface;

receive a content selection via the user interface, the content selection being associated with at least one item on the at least one selection menu;

provide an indicator of the content selection to the information content source interface;

receive information content via the information content source interface, the information content being associated with the content selection;

if the received information content is not organized as content segments and sub-segments, convert the information content to content segments and each content segment to at least one sub-segment; and

store the information content into the memory storage unit.

90. (previously presented) The playback device of claim 89, further comprising an audio interface and a response generator interface and the processing unit is further operative to:

read the information content from the memory storage unit;

provide the information content to the audio interface;

detect a response signal on the response generator interface; and

associate the response signal with the currently active sub-segment being provided to the audio interface.

91. (previously presented) The playback device of claim 90, wherein the processing unit is further operative to provide the response signal to the information content source interface.

92. (previously presented) The playback device of claim 90, wherein the at least one selection menu is an audio menu and the processing unit provides the at least one selection menu to the audio interface.

93. (previously presented) The playback device of claim 92, wherein the user interface includes a display device, the at least one selection menu is a displayable menu and the processing unit provides the at least one selection menu to the display device.

94. (previously presented) A playback device comprising:

a memory storage unit;

an information content source interface;

an audio interface;

a user interface; and

a processing unit coupled to the memory storage unit, the user interface, the audio interface and the information content source interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to:

in response to instructions received via the user interface, enable the information content source interface;

receive at least one selection menu via the information content source interface;

receive a content selection via the user interface, the content selection being associated with at least one item on the at least one selection menu;

provide an indicator of the content selection to the information content source interface;

receive information content via the information content source interface, the information content being associated with the content selection and being organized as a plurality of content segments, at least one of which includes one or more sub-segments; and

provide the information content to the audio interface;

a response generator interface and the processing unit is further operative to:

detect a response signal on the response generator interface; and

associate the response signal with the information content currently being provided to the audio interface.

95. (canceled)

96. (previously presented) The playback device of claim 94, wherein the processing unit is further operative to provide the response signal to the information content source interface.

97. (previously presented) The playback device of claim 94, wherein the at least one selection menu is an audio menu and the processing unit provides the at least one selection menu to the audio interface.

98. (previously presented) The playback device of claim 94, wherein the user interface includes a display device, the at least one selection menu is a displayable menu and the processing unit provides the at least one selection menu to the display device.